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91-279

Supreme Court, U.S.
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IN THE SUPREME COURT OF THE UNITED STATES

October Term, 1991

RAYMOND J. CAPLETTE,

Petitioner,

vs.

UNITED STATES OF AMERICA,

Respondent.

PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

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CONTENTS REPRODUCED FROM FURNISHED PRETYPED COPY

QUESTIONS PRESENTED FOR REVIEW

1. Does "a President of the United States of America," who "shall nominate, and by and with the Advice and Consent of the Senate," appoint "Judges of the Supreme Court," insure that "The judicial Power of the United States, shall be vested in one supreme Court," and establish a "supreme" court so that "We the people" can "form a more perfect union, establish justice...and secure the Blessings of Liberty to ourselves and our posterity..."?

2. Has "the Blessings of Liberty to ourselves and our Posterity," been denied by not teaching law and financial studies to the citizens of such a diverse cultural, ethnic, racial, and religious nation on a national level?

3. Does a lawyer from the Defendant office qualify as "counselor" when the

knowledge of taxation is limited and must not offend the Court, because the Court has made its own law?

4. Is the Internal Revenue Service and Justice Department guilty of extortion under the common law by the taking of money before it is due?

5. Does the refusal of the Federal Reserve Board to have full employment affect this case?

6. Can the Internal Revenue Service and Justice Department ignore the fact that Congress acknowledges that "we are no longer sure of what we mean by money," "people no longer know what they mean when they talk about money," and "Money is now, inevitably, only a token of value."?

7. Does discrimination in the collection of taxes exist, and affect this case?

8. Does taxation without representation exist when U.S. citizens are taxed to support any plan or give-away to any nation or person by this ONE WORLD GOVERNMENT congress?

9. Can a citizen be brought to trial without proof that no lawful money was first obtained?

10. If you choose to donate to a religious association, does the IRS deny this?

11. Can this debtor nation tax citizens and continue to finance other nations?

12. Can taxes be used to save S&L companies without we the people receiving benefits from our labor?

13. Banks, IMF, etc., charge foreign countries an interest on money lent out, can taxpayers be paid interest also?

14. When a Court refuses the jury to use a law dictionary to assist in their understanding of the law, is this error?

TOPICAL INDEX

	Page
QUESTIONS PRESENTED FOR REVIEW	i
Table of Authorities	vi
PETITION FOR WRIT OF CERTIORARI	
OPINION BELOW	2
JURISDICTION	2
CONSTITUTIONAL PROVISION INVOLVED	3
STATEMENT OF THE CASE	4
REASONS FOR GRANTING THE WRIT	5
CONCLUSION	9
APPENDICES	

TABLE OF AUTHORITIES

Constitution

	Page
Bill of Rights (excerpts) Articles I, V, VI, VII, IX, X, XIII	3
Article III, Section 1 (excerpt)	4
Preamble (excerpt)	3

Rules and Statutes

Supreme Court Rule 17.1.(C)	3
28 U.S.C. Section 1254(1)	2

Miscellaneous

Report No. 83-125 E MONEY AND MONEY AND NEAR MONIES: A PRIMER by John B. Henderson, June 7, 1983 HG 546 U.S.	5
USA TODAY 3-16-88 Section B, Mark Memmott	6
GOD SAVE THIS HONORABLE COURT by Laurence H. Tribe	7
L.A. Daily Journal, 10-25-85 No. 85-20, p. 5	7

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No. _____

RAYMOND J. CAPLETTE,

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PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

The petitioner, Raymond J. Caplette, respectfully prays that a writ of certiorari issue to review the judgment of the United States Court of Appeals for the Ninth Circuit entered on March 26, 1991.

OPINION BELOW

Court of Appeals entered its Memorandum decision affirming the denial of Petitioner's motion to dismiss on April 10, 1991. Copy of the memorandum is attached as Appendix A.

Court denied rehearing and suggestion for rehearing en banc on May 30, 1991. Copy of order attached as Appendix B.

JURISDICTION

On May 30, 1991 the Court of Appeals entered judgment affirming the denial of petitioner's action to dismiss the indictment against him. (App. A) The jurisdiction of this Court is invoked under Title 28, United States Code, Section 1254(1).[1/]

[1/] No other petitioner is involved in this petition.

Rules of the Supreme Court, Rule 17.1.(c): When a state court or a federal court of appeals has decided an important question of federal law which has not been, but should be settled by this Court, or has decided a federal question in a way in conflict with applicable decisions of this Court.

CONSTITUTIONAL PROVISION INVOLVED

Preamble to the Constitution: We, the people..., ... secure the Blessings of Liberty to ourselves and our Posterity,...

The BILL OF RIGHTS, ARTICLE I, Congress shall make no law respecting an establishment of religion,...; ARTICLE V ... nor be deprived of life, liberty, or property, without due process of law;...; ARTICLE VI,..., by an impartial jury...: ARTICLE VII, ... no fact tried by a jury shall be otherwise re-examined in any Court of the United States, than according to the rules of the common law.; ARTICLE IX, The enumeration in the Constitution of certain rights, shall not be construed to deny or disparage others retained by the people.; ARTICLE X, ... powers not delegated..., are reserved..., to the people.; ARTICLE XIII, Neither slavery nor involuntary

servitude,... shall exist within the United States,....

The CONSTITUTION OF THE UNITED STATES, ARTICLE III, Section 1. The judicial Power of the United States, shall be vested in one supreme Court,....

STATEMENT OF THE CASE

On June 17,1988, Caplette was convicted by a jury on all four counts of failure to file income tax returns, and on September 26, 1988, was sentenced to three months at a community treatment center and consecutive five-year terms of probation.

NINTH CIRCUIT COURT OF APPEALS, on April 10, 1991, AFFIRMED Central District of California, Pamela Ann Rymer, District Judge, Presiding.

PETITION FOR REHEARING EN BANC was denied on May 30, 1991, by Ninth Circuit; DC No. CR-88-0218-PAR; No. 88-5379.

REASONS FOR GRANTING THE WRIT

CAPLETTE, like other citizens, have obtained what is called money on an hourly basis, but the law and how our government runs the financing of the nation has been left out of the educational system and there is no known hope toward this. Congress has acknowledged that, "It is both significant and ironic that in recent years we are no longer sure of what we mean by money or how to state how much money we possess or use. [ABSTRACT]; people no longer know what they mean when they talk about money.; Money is now inevitably, only a token of value."[2/] Checks are not legal tender and you never know if a bank will cash it and that includes government checks, also. My

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2/ Report No. 83-125 E MONEY AND NEAR-MONIES: A PRIMER by John B. Henderson, Senior Specialist in Price Economics June 7, 1983 HG 546 U.S.

son, stood before me, dressed in Army uniform and tried to cash that government check and was refused;--all identification was useless.

ADAM SMITH in PAPER MONEY, says, "The trouble with paper money is that it rewards the minority that can manipulate money and makes fools of the generation that has worked and saved."

USA TODAY, 3-16-88 Sec. B, MARK MEMMOTT, Federal Reserve Board Chairman Alan Greenspan told Congress Tuesday that if the unemployment rate hits 5.2%... we'll be at "full employment." This government agency (?) refuses to have full employment for American citizens. This same group took THE UNITED STATES OF AMERICA money out of circulation and lowered the Nations money to "collectors and dealers of numismatic items..." (Dept. of the Treasury, ltr to me, 2-13-88, Ext.Aff.Staff.)

"Without a vigilant and resolute Supreme Court, our most precious liberties are only words on yellowed parchment." (p. 31) Introduction page, "says Tribe; Presidents usually get exactly what they want from the persons they choose." ... author states "Picking judges is too important a task left to any President." (GOD SAVE THIS HONORABLE COURT, by Laurence H. Tribe)

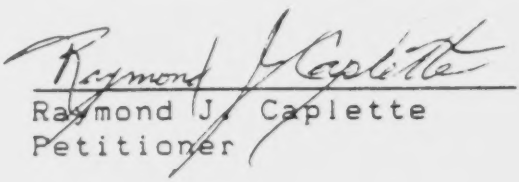
"During the 1980 Presidential campaign, then-candidate Reagan said: ... There must be new justices on the Court, women and men who respect and reflect the values and morals of the American majority. I pledge to make such appointments." (Report, L.A. DAILY JOURNAL, 10-25-85 No. 85-20, p. 5) The Court later changed 95 of 100 cases (overturned), 4 chopped up and 1 survived.

Two hundred years have past and yet the Court does not pick its own colleagues. Reagan filled the Court up to 47% and 25% are millionaires. Equality and employment is denied to Americans unless they fit a certain plan, one being a party member. The Founding Fathers didn't see it coming; they would never pay or approve of a judge staying in office if convicted of a crime. My case depends, as well as the nations future depends on a system that our Founding Fathers look to giving the nation, where "The judicial Power... shall be vested in one supreme Court,..."

CONCLUSION

For the foregoing reasons, petitioner Raymond J. Caplette respectfully requests that a writ of certiorari issue to review the judgment of the United States Court of Appeals for the Ninth Circuit.

Respectfully submitted,



Raymond J. Caplette
Petitioner

APPENDIX A

FILED APR 10 1991
Cathy A. Catterson, Clerk
U.S. Court of Appeals

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA, Plaintiff-Appellee, v. RAYMOND J. CAPLETTE, Defendant-Appellant.	No. 88-5379 DC No. CR-88-0218-PAR MEMORANDUM*

Appeal from the United States District Court
for the Central District of California
Pamela Ann Rymer, District Judge, Presiding

Submitted April 1, 1991**
Pasadena, California

Before: BOOCHEVER, KOZINSKI, and O'SCANNLAIN, Circuit Judges.

* This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

** The panel finds this case appropriate for submission without oral argument pursuant to Fed. R. App. P. 34(a) and 9th Cir. R. 34-4.

Raymond J. Caplette appeals pro se his conviction for income tax evasion in violation of 26 U.S.C. § 7201. Caplette alleges insufficiency of evidence to support a guilty verdict, improper admission of his income statement from a previous civil proceeding, and erroneous exclusion of written materials and testimony to show the basis of his belief that the law did not require him to pay taxes. We AFFIRM.

BACKGROUND

Caplette did not file income tax returns nor pay income taxes for 1981-1984, even though he had done so for the previous six years. Instead, he claimed exempt status when filing W-4 forms for 1981-1984. On March 22, 1988, a federal grand jury indicted Caplette on four counts of income tax evasion in violation of 26 U.S.C. § 7201. On June 17, 1988, Caplette was convicted by a jury on all four counts. On September 26,

1988, Caplette was sentenced to three months at a community treatment center and consecutive five-year terms of probation.

DISCUSSION

Sufficiency of the Evidence

There is sufficient evidence to support a conviction if "'a reasonable jury, after viewing the evidence in the light most favorable to the government, could have found the defendants guilty beyond a reasonable doubt of each essential element of the crime charged.'" United States v. Hernandez, 876 F.2d 774, 777 (9th Cir.)(citation omitted), cert. denied, 110 S. Ct. 179 (1989). The government must prove the following elements to sustain a conviction of tax evasion: 1) an actual deficiency; 2) an affirmative act of evasion or attempted evasion of paying income taxes; and 3) a willful evasion of paying taxes. United States v. Hamilton 620 F.2d 712, 714 (9th Cir. 1980)

(citing Sansone v. United States, 380 U.S. 343, 351 (1965)).

To show an actual deficiency, the government focused upon the evidence that Caplette filed IRS W-4 forms claiming exemption and did not pay taxes for 1981-1984. The government showed that Caplette actually owed several thousand dollars in taxes for each of these years. This was calculated using the income Caplette had received during 1981-1984, which was recorded on the pay roll register of his employer, McDonnell-Douglas. The government also presented evidence showing that Caplette himself asserted in a loan application dated August 30, 1982, that he had a gross income of $2,340 a month.

To prove that Caplette committed an affirmative act of tax evasion, the government cited the above evidence. Additionally, it presented evidence of a March, 1986

interview with an IRS agent. Caplette admitted in the interview to filing the W-4 forms, claiming to be exempt. He rationalized that he did so because he was in need of money due to a loan he had made to his daughter, car notes, and campaign expenses.

This evidence also went to Caplette's willful failure to file. Caplette had properly filed income tax returns, paid taxes and did not claim to be exempt for 1974-1980. He signed the W-4 form in which he claimed exemption for 1981 one month prior to filing his 1980 tax return. Caplette therefore had knowledge of income tax requirements and procedure. This refutes a good faith mistake defense, and instead indicates that Caplette knowingly and willfully failed to pay taxes in 1981-1984. Viewing the evidence in a manner most favorable to the government, we find

that a reasonable jury could conclude that Caplette owed taxes for 1981-1984, and that he acted affirmatively and willfully.

Admission of Statement From Previous Proceeding

Caplette also argues that under Federal Rules of Criminal Procedure 16 (a)(1)(A) (defendant's right to inspect previous written statement), the district court should not have admitted a certified copy of a written income statement he had made in his 1983 divorce proceeding. Caplette complained that the government first informed him of its intention to use the document on the night before trial. The district court ruled that the government could use the document only to impeach Caplette, but not in its case-in-chief. Evidentiary rulings by the district court are reviewed for abuse of discretion. United States v. Emmert, 829 F.2d 805, 808

(9th Cir. 1987).

A similar ruling was upheld in United States v. Sukumolachan, 610 F.2d 685 (9th Cir. 1980). There, evidence of an inculpatory statement the appellant had made after his arrest was not disclosed to him until the morning of trial. Id. at 687. Like the ruling in Caplette's case, in Sukumolachan the district court allowed the evidence to come in only to impeach the appellant, but not during the government's case-in-chief. Id. We stated that "by denying the government use of the statement until the possible cross-examination of the defendant, the court afforded appellant a reasonable opportunity either to avoid impeachment by not taking the stand or to prepare a rebuttal to the statement." Id. at 688. Likewise, Caplette could have opted not to testify in order to prevent the statement from being admitted. In the alternative, he had a

reasonable opportunity to prepare a rebuttal. The district court therefore did not abuse its discretion in Caplette's case.

Exclusion of Written Material and Testimony

Caplette further alleges that the court should have allowed him to refer to and introduce as evidence numerous documents relevant to his belief that he did not have to pay taxes. He also claims that the district court should not have restricted testimony of a defense witness relevant to this belief.

Exclusion of similar evidence was deemed to be proper in United States v. Hurd, 549 F.2d 118 (9th Cir. 1977). There, the trial court excluded evidence offered by the defendant to show his belief that he did not owe taxes. Specifically, defendant was seeking to provide information establishing that he had been led, in good faith,

to believe that the system of taxation was "based on voluntary compliance" and that Federal Reserve Notes do not actually constitute legal tender. Id. at 120.

Caplette also sought to establish his belief that he did not owe taxes. At trial he testified that income tax applies only to "big business" and that Federal Reserve Notes do not constitute legal tender. He asserted that this position was supported by the Constitution and that he should be allowed to admit new evidence regarding the sixteenth amendment "ratification fraud." Additionally, a defense witness was allowed to testify regarding discussions he had with Caplette regarding taxation, but was not allowed to speculate as to Caplette's state of mind or the law.

We find, as did Hurd, that the exclusion of the documents and testimony was not an abuse of discretion. The district court

allowed Caplette wide latitude in explaining the basis of his belief and his state of mind. It found that admitting the large volume of documents would only confuse and mislead the jury.

CONCLUSION

There was sufficient evidence to support a guilty verdict. The trial court did not abuse its discretion in conditionally admitting Caplette's written statement from a previous court proceeding, nor in refusing to admit documents and testimony relevant to the illegality of federal tax law.

We AFFIRM.

APPENDIX B

FILED MAY 30 1991

Cathy A. Catterson, Clerk
U.S. Court of Appeals

NOT FOR PUBLICATION

UNITEAD STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA	)	No. 88-5379
	)	
Plaintiff-Appellee,	)	DC NO.
	)	CR-88-0218-PAR
v.	)	
	)	
RAYMOND J. CAPLETTE	)	
	)	ORDER
Defendant-Appellant.	)	
	)	

Before: BOOCHEVER, KOZINSKI, and O'SCANNLAIN, Circuit Judges.

The panel has voted to deny the petition for rehearing. Judges Kozinski and O'Scannlain reject the suggestion for rehearing en banc and Judge Boochever so recommends.

The full court has been advised of the suggestion for rehearing en banc and no

active judge has requested a vote on whether to rehear the matter en banc. (Fed. R. App. P. 35.)

The petition for rehearing is denied and the suggestion for rehearing en banc is rejected.